

1  
In Convention  
Assembly Chamber  
State Capitol

Sacramento.

Thursday Jan 16<sup>th</sup> 1879

Convention met pursuant  
to adjournment

President Hoze in the Chair

Roll called and the  
following members  
were absent:

# Roll-Call of Delegates to the Constitutional Convention, 1878.

NAMES.	Ayes	Noes	NAMES.	Ayes	Noes	NAMES.	Ayes	Noes	NAMES.	Ayes	Noes
ANDREWS	1		FAWCETT	25		LARUE	54		SHAFTER	73	
AYERS	2		FILCHER	26		LAVIGNE	52		SHOEMAKER		
BARBOUR	103		FINNEY			LEWIS			SHURTLEFF	74	
BARNES			FREEMAN	112		LINDOW	53		SMITH	75	
BARRY			FREUD	27		MANSFIELD	54		SMITH	76	
BARTON	3		GARVEY	28		MARTIN			SMITH	77	
BEERSTECHER	4		GLASSCOCK	29		MARTIN	55		SMITH	78	
BELCHER	5		GORMAN	30		MARTIN	56		SOULE	79	
BELL	6		GRACE	109		McCALLUM	57		STEDMAN	80	
BERRY			GRAVES			McCOMAS	58		STEELE	81	
BIGGS	7		GREGG			McCONNELL	59		STEVENSON	82	
BLACKMER	8		HAGER			McCOY			STUART	83	
BOGGS	9		HALE	113		McFARLAND			SWEASEY	84	
BOUCHER	10		HALL			McNUTT	59		SWENSON	85	
BROWN	11		HARRISON	31		MILLER	60		SWING	86	
BURT	12		HARVEY	32		MILLS	61		TERRY		
CAMPBELL			HEISKELL			MOFFAT	62		THOMPSON	87	
CAPLES	13		HEROLD	33		MORELAND	63		TINNIN	88	
CASSERLY	14		HERRINGTON	34		MORSE	64		TOWNSEND	107	
CHAPMAN			HILBORN	35		MURPHY			TULLY	106	
CHARLES	15		HITCHCOCK	36		NASON	65		TURNER	88	
CONDON	16		HOLMES	37		NELSON			TUTTLE	89	
COWDEN			HOWARD	165		NEUNABER	66		VACQUEREL		
CROSS			HOWARD	38		NOEL			VAN DYKE	90	
CROUCH	17		HOWARD	39		O'DONNELL			VAN VOORHIES	91	
DAVIS	18		HUESTIS	40		OHLEYER	67		WALKER		
DEAN			HUGHEY	41		O'SULLIVAN			WALKER	92	
DOWLING	19		HUNTER	42		OVERTON			WALKER	93	
DOYLE	20		INMAN			PORTER			WALKER	94	
DUDLEY			JOHNSON	43		PROUTY			WALKER	95	
DUDLEY	21		JONES	44		PULLIAM			WALKER	96	
DUNLAP	108		JOYCE	110		REDDY			WALKER	97	
EAGON			KELLY	45		REED	68		WALKER	98	
EDGERTON	22		KENNY	46		REYNOLDS	102		WHITE		
ESTEY	23		KEYS	47		RHODES	69		WILSON		
ESTEE			KLEINE	48		RINGGOLD	70		WILSON	99	
ESTEE	24		LAINÉ	49		ROLFE	71		WILSON	100	
EVEY			LAMPSON	50		SCHELL			WILSON	101	
FARRELL	104		LARKIN			SCHOMP	72		WYATT		
									Mr. PRESIDENT		

AYES-----

NOES-----

105  
625  
110  
111/2

3)

## Leave of absence

Leave of absence for two days was granted to Mrs.

Pronty. Petition

Colusa

~~the President of Colusa Co. reported from the~~

Mr. Holmes presented a petition from citizens of Fresno County, requesting the exemption of certain property, and for charitable, educational, and church purposes, from taxation. Laid on the table, to be considered with the article on revenue and taxation.

and  
am

On motion of Mrs. Huestis

the reading of the journal was dispensed with and the same approved.

## Committee of the whole.

On motion of Mrs. Ayers the Convention resolved itself into Committee of the whole - President Hoyle in the Chair - to consider the following article reported by the Committee of on Harbor tide waters and navigable streams.

4)

ARTICLE —

HARBOR FRONTAGES, ETC.

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable, and that the people shall not be shut out from the same.

SEC. 3. All tide lands within two miles of any incorporated city or town in this State; and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations; but sites for wharves, warehouses, or other necessary incidents to commerce, may, upon application to the Board of Supervisors of the counties in which such sites are situated, and after due public notice of such application, be leased by such Boards for a term of years to such persons, partnerships or corporations; *provided*, that nothing in this section shall apply to the tide lands of the Bay of San Francisco.

at 10 o'clock and 20 minutes  
a m. The Committee ~~then~~  
arose, reported the article  
back with amendments.

In Convention

Mrs. Ayres moved that 240  
copies of the article with  
amendments be printed  
so ordered.

Committee of the whole.

On motion of Mrs. Ayatt the conven-  
tion resolved itself into  
Committee of the whole —

5)

President Hoyle in the chair -  
to consider the following  
article reported by the  
Committee on City, County  
and Township organizations

RECEIVED OCT 12 1914

Amendment.

No. 521.

INTRODUCED BY COMMITTEE ON CITY, COUNTY, AND TOWNSHIP ORGANIZATIONS.

DECEMBER 7TH, 1878.

READ, AND ORDERED PRINTED, AND PLACED ON GENERAL FILE.

ARTICLE —.

CITIES, COUNTIES, AND TOWNS.

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

SEC. 2. County seats shall not be removed by special law, but such removals shall be provided for by general law. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

SEC. 3. No new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand; nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided; nor shall a county be divided, or have any portion taken therefrom, unless a majority of all the qualified electors of the county or counties

7 affected, voting at a general election, shall vote therefor. New counties, when  
8 created, or portions of a county, when added to another county, shall be liable  
9 for their just proportion of all debts and liabilities, then existing, of the county  
10 or counties out of which they are respectively formed or taken.

SEC. 4. The Legislature shall establish a system of county govern-  
2 ments which shall be uniform throughout the State; and by general laws shall  
3 provide for township organization, under which any county may organize  
4 whenever a majority of the qualified electors of such county, voting at a gen-  
5 eral election, shall so determine; and, whenever a county shall adopt township  
6 organization, the assessment and collection of the revenue shall be made, and  
7 the business of such county and the local affairs of the several townships  
8 therein shall be managed and transacted in the manner prescribed by such  
9 general laws.

SEC. 5. The Legislature, by general and uniform laws, shall provide  
2 for the election or appointment, in the several counties, of Boards of Super-  
3 visors, Sheriffs, County Clerks, District Attorneys, and such other county,  
4 township, and municipal officers as public convenience may require, and shall  
5 prescribe their duties and fix their compensation. It shall regulate the sala-  
6 ries and fees of all county officers, in proportion to duties, and for this pur-  
7 pose may classify the counties by population; and it shall provide for the  
8 strict accountability of county and township officers for all fees which may  
9 be collected by them, and for all public and municipal moneys which may be  
10 paid to them or officially come into their possession.

SEC. 6. Corporations, for municipal purposes, shall not be created by  
2 special laws, but the Legislature, by general laws, shall provide for the incor-  
3 poration, organization, and classification, in proportion to population, of cities

4 and towns; and cities and towns heretofore organized or incorporated may  
5 become organized under and subject to such general laws. Cities and towns  
6 may become incorporated under general laws, whenever a majority of the  
7 electors voting at a general election shall so determine, and shall organize in  
8 conformity therewith.

SEC. 7. City and county governments may be merged and consoli-  
2 dated into one municipal government, with one set of officers, and may be  
3 incorporated under general laws providing for the incorporation and organi-  
4 zation of corporations for municipal purposes. The provisions of this Consti-  
5 tution applicable to cities, and also those applicable to counties, so far as not  
6 inconsistent or not prohibited to cities, shall be applicable to such consolidated  
7 government. In consolidated city and county governments, of more than one  
8 hundred thousand population, there shall be two Boards of Supervisors or  
9 Houses of Legislation—one of which, to consist of twelve persons, shall be  
10 elected by general ticket from the city and county at large, and shall hold  
11 office for the term of four years, but shall be so classified that after the first  
12 election only six shall be elected every two years; the other, to consist of  
13 twelve persons, shall be elected every two years, and shall hold office for two  
14 years. Any casual vacancy in the office of Supervisor in either Board shall  
15 be filled by the Mayor.

SEC. 8. No person shall be eligible to a county or city office unless he  
2 has been a citizen and resident within such county or city for two years next  
3 preceding his election or appointment to an office therein.

SEC. 9. Any city having a population of more than one hundred  
2 thousand inhabitants may frame a charter for its own government, consistent  
3 with and subject to the Constitution and laws of this State, by causing a Board



4 of fifteen freeholders, who shall have been for at least five years qualified  
5 electors thereof, to be elected by the qualified voters of such city, at any gen-  
6 eral or special election, whose duty it shall be, within ninety days after such  
7 election, to prepare and propose a charter for such city, which shall be signed  
8 in duplicate by the members of such Board, or a majority of them, and returned,  
9 one copy thereof to the Mayor, or other chief executive officer of such city,  
10 and the other to the Recorder of deeds of the county. Such proposed charter  
11 shall then be published in two daily papers of largest general circulation in  
12 such city for at least twenty days, and within not less than thirty days after  
13 such publication it shall be submitted to the qualified electors of such city at  
14 a general or special election, and if a majority of such qualified electors voting  
15 thereat shall ratify the same, it shall, at the end of sixty days thereafter,  
16 become the charter of such city, or if such city be consolidated with a county  
17 in government, then of such city and county, and shall become the organic  
18 law thereof, and supersede any existing charter and all amendments thereof,  
19 and all special laws inconsistent with such charter. A copy of such charter,  
20 certified by the Mayor, or chief executive officer, and authenticated by the  
21 seal of such city, setting forth the submission of such charter to the electors,  
22 and its ratification by them, shall be made in duplicate and deposited, one in  
23 the office of the Secretary of State, the other, after being recorded in the office  
24 of the Recorder of deeds of the county, among the archives of the city, and  
25 thereafter all Courts shall take judicial notice thereof. The charter so ratified  
26 may be amended at intervals of not less than two years, by proposals therefor,  
27 submitted by the legislative authority of the city to the qualified voters thereof,  
28 at a general or special election held at least sixty days after the publication of  
29 such proposals, and ratified by at least three-fifths of the qualified electors  
30 voting thereat. In submitting any such charter, or amendment thereto, any

31 alternative article or proposition may be presented for the choice of the voters,  
32 and may be voted on separately without prejudice to others.

SEC. 10. The compensation or fees of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

SEC. 11. No county, city, town, or other public or municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 12. Any county, city, town, or township may make and enforce within their respective limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

SEC. 13. Taxes for county, city, town, school, and other local purposes must be levied on all subjects and objects of taxation. In addition to that which may be levied for the payment of the principal and interest of existing indebtedness, the annual rate on property shall not exceed the following: For county purposes, in counties having two million dollars or less, shall not exceed — cents on the one hundred dollars' valuation; in counties having six million dollars, and under ten million dollars, such rate shall not exceed — cents on the one hundred dollars' valuation; and in counties having ten million dollars or more such rate shall not exceed — cents on the one hundred dollars' valuation. For city and town purposes such annual rate on property in incorporated cities and towns shall not exceed — cents on the one hundred dollars' valuation; and in any city and county with consoli-

13 dated government, such rate shall not exceed — cents on the one hundred  
14 dollars' valuation.

SEC. 14. The Legislature shall have no power to impose taxes upon  
2 counties, cities, towns, or other public or municipal corporations, or upon the  
3 inhabitants or property thereof, for county, city, town, or other municipal  
4 purposes, but may, by general laws, vest in the corporate authorities thereof  
5 the power to assess and collect taxes for such purposes.

SEC. 15. The Legislature shall not delegate to any special commission,  
2 private corporation, company, association, or individual, any power to make,  
3 control, appropriate, supervise, or in any way interfere with, any county, city,  
4 town, or municipal improvement, money, property, or effects, whether held in  
5 trust or otherwise, or to levy taxes or assessments, or perform any municipal  
6 functions whatever.

SEC. 16. No State office shall be continued or created in any county,  
2 city, town, or other municipality, for the inspection, measurement, or gradua-  
3 tion of any merchandise, manufacture, or commodity; but such county, city,  
4 town, or municipality may, when authorized by general law, and the public  
5 interest demands it, appoint such officers.

SEC. 17. Private property shall not be taken or sold for the payment  
2 of the corporate debt of any political or municipal corporation.

SEC. 18. All moneys, assessments, and taxes belonging to or collected  
2 for the use of any county, city, town, or other public or municipal corpora-  
3 tion, coming into the hands of any officer thereof, shall, immediately on the  
4 receipt thereof, be deposited with the Treasurer, or other legal depositary, to

5 the credit of such city, town, or other corporation respectively, for the benefit  
6 of the funds to which they respectively belong.

SEC. 19. The making of profit out of county, city, town, or public  
2 school money, or using the same for any purpose not authorized by law, by  
3 any officer having the possession or control thereof, shall be a felony, and  
4 shall be prosecuted and punished as prescribed by law.

SEC. 20. No county, city, town, township, Board of Education, or  
2 school district, shall incur any indebtedness or liability in any manner, or for  
3 any purpose, exceeding in any year the income and revenue provided for them  
4 respectively for such year, without the assent of two-thirds of the voters  
5 thereof voting at an election to be held for that purpose; and in cases requir-  
6 ing such assent no indebtedness shall be incurred (except by a county to erect  
7 a Court-house or Jail) to an amount, excluding existing indebtedness, in the  
8 aggregate exceeding five per centum on the value of the taxable property  
9 therein, to be ascertained by the assessment next before the last assessment  
10 for State and county purposes previous to the incurring such indebtedness,  
11 and unless, before or at the time of incurring such indebtedness, provision  
12 shall be made for the collection of an annual tax sufficient to pay the interest  
13 on such indebtedness as it falls due, and also to constitute a sinking fund for  
14 the payment of the principal thereof within forty years from the time of con-  
15 tracting the same.

SEC. 21. No county, city, town, or other public or municipal corpora-  
2 tion, by a vote of its citizens or otherwise, shall become a subscriber to the  
3 capital stock, or a stockholder in any corporation, association, or company, or  
4 make any appropriation, or donation, or loan its credit to, or in aid of, any  
5 person, corporation, association, company, or institution.

SEC. 22. No law shall be passed by the Legislature granting the right  
2 to construct and operate a railroad within any city, town, village, or on any  
3 public street or highway thereof, without the consent of the municipal or other  
4 proper local authorities having the control of such street or highway proposed  
5 to be occupied by such railroad.

SEC. 23. In any city where there are no public works owned and con-  
2 trolled by the municipality for supplying the same with artificial light and  
3 water, any company duly incorporated by the laws of this State shall, under  
4 the direction of the Superintendent of Streets of said city, have the privilege  
5 of disturbing and using the public streets and thoroughfares thereof, and of  
6 laying down pipes and conduits therein, and of making connections there-  
7 with, so far as may be necessary for introducing into and supplying such city  
8 and its inhabitants either with gaslight or other illuminating light, or with  
9 fresh water for domestic and all other purposes, for which the same or either  
10 may be used, upon the conditions following: Such company shall make good  
11 all damages to such streets and thoroughfares, except necessarily occasioned  
12 by the reasonable use thereof, and be liable to such city and its inhabitants  
13 therefor. Such company introducing and supplying gaslight or other light,  
14 and fresh water, or either, shall furnish the same, so far as necessary and  
15 required, free and without charge, to all public buildings, institutions, and  
16 school houses belonging to such city, and used for municipal purposes; and  
17 such company introducing and supplying water shall also furnish the same,  
18 free and without charge, to the Fire Department, and for the extinguishment  
19 of fires. Each company, its property and franchise, shall be liable to such  
20 city and its inhabitants for the performance of these conditions.

SEC. 24. In counties or cities having more than one hundred thousand

2 inhabitants no person shall, at the same time, be a State officer and a city or  
3 county officer, nor hold two city or county offices.

SEC. 25. No public work or improvement of any description what-  
2 soever shall be made or done, in any city, in, upon, or about the streets  
3 thereof, or otherwise, the cost and expense of which is made chargeable or  
4 may be assessed upon private property by special assessment, unless an esti-  
5 mate of such cost and expense shall be made, and an assessment in propor-  
6 tion to benefits, on the property to be affected or benefited, and shall be  
7 collected and paid into the city treasury before such work or improvement  
8 shall be commenced, or any contract for letting or doing the same authorized  
9 or performed.

SEC. 26. The Legislature shall not pass any local or special law in  
2 the cases following :

3 Regulating the affairs of counties, cities, towns, townships, wards, city or  
4 county Boards of Education, school districts, or other political or municipal  
5 corporation or subdivision of the State;

6 Authorizing the laying out, opening, altering, maintaining, or vacating  
7 roads, highways, streets, alleys, town plats, or parks;

8 Relating to cemeteries, graveyards, or public grounds not of the State;

9 Locating or changing county seats;

10 Incorporating cities, towns, or villages, or changing their charters;

11 Creating offices, or prescribing the powers and duties of officers in  
12 counties, cities, towns, townships, or school districts;

13 Regulating the fees or extending the powers and duties of county or  
14 municipal officers;

15 Regulating the management and maintenance of public schools, the

16 building or repairing of school or Court-houses, and raising of money for such  
17 purposes;

18 Extending the time for the assessment or collection of county, city, or  
19 other municipal taxes, or otherwise relieving any Assessor or Collector of  
20 county or city taxes from the due performance of the official duties, or their  
21 securities from liability;

22 Legalizing the unauthorized or invalid acts of any officer or agent of  
23 any county or municipality thereof;

24 Directing the payment of money out of the treasury, or by any officer, of  
25 any county, city, or town, without the consent of such county, city, and town.

26 Directing the payment of money from out of the treasury, or by any  
27 officer of, or creating any liability against, a county, city, town, or any public  
28 or municipal corporation, without its consent.

at 12 o'clock and 30  
minutes P.M. the  
Committee arose, repor-  
ted progress and asked  
leave to sit again.

C. P. & Terms

1892



Recess.

The hour having arrived  
the Convention took a recess  
till two o'clock P. M.

Afternoon Session

The Convention re-assem-  
bled at two o'clock P. M.

President Hoge in the Chair.

Quorum present

Resolution.

By Mrs. Swiny

Whereas The Secretary of this Convention  
J. A. Johnson has declared <sup>to members of this convention</sup> his intention  
of absenting himself for the purpose of  
visiting the National Capital on business  
entirely unconnected with his duties as  
Secretary, and has already been absent  
from his duties for a period  
of more than three days without  
leave, and without furnishing a substitute;  
Resolved: That the office of Secretary  
of this Convention be and the same  
is hereby declared vacant, and  
that G. W. A. Thornton be and he  
is hereby declared Secretary of the  
Convention for the remainder of the  
session.

Done

Special order

2 P.M.

Monday

Jan 20/9

Re

17th Dec 1888

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Mr. McAllum moved  
that this resolution be made  
the special order for Mon-  
day, January 20 1879 at  
1 o'clock P.M. and that  
the Assistant Secretary  
notify Mr. Johnson of  
the action of the Convention.

~~Committee of the Whole.~~  
So ordered.

Committee of the Whole.  
On Motion of Mr. Herington  
the Convention resolved  
itself into Committee

19/ of the whole — President  
Hoge in the Chair — to further  
consider the article on Cities  
Counties and Towns.

At 4 o'clock and 3-5-  
minutes P. M. the committee  
arose reported progress  
and asked leave to sit  
again.

At 4 o'clock and 5-5-  
minutes P. M. on motion  
of Mr Blackmer the  
convention adjourned

1/16/79

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